IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

WP(C).No. 25715 of 2007(J)

PETITIONER:

JOSE K. JOHN, S/O. K.J.JOHN,
AGED 47 YEARS, RESIDING AT KOCHERIL HOUSE,
PERUMBADAVOM KARA P.O., ELANJI VILLAGE,
ERNAKULAM DISTRICT.

BY ADV. SRI.M.B.SANDEEP
SRI.P.G.SURESHKUMAR
SRI.P.G.MANU (MAMMALASSERY)

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO THE GOVERNMENT OF KERALA,
DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
MUVATTUPUZHA.

3. THE CIRCLE INSPECTOR OF POLICE,
KOOTHATTUKULAM POLICE STATION.

4. GEORGE K.JOHN, S/O. K.J.JOHN,
AGED 45, KOCHERIL HOUSE, PERUMBADAVOM KARA,
ILANJI VILLAGE, ERNAKULAM DISTRICT.

5. SANTHOSH, S/O. CHERIAN, AGED 34 YEARS,
RESIDING AT POKATHIL HOUSE, KIZHAKOMBU KARA,
KOOTHATTUKULAM VILLAGE, ERNAKULAM.

6. GEORGE K.JOHN, S/O. UTHUP JOHN,
AGED 51, KUNNUMEL HOUSE, MANNATHOOR KARA,
MANNATHOOR P.O., ERNAKULAM DISTRICT.

7. K.J.JOSE, S/O. UTHUP JOHN, AGED 62,
KOCHERIL HOUSE, PERUMBADAVOM KARA,
ILANJI VILLAGE, ERNAKULAM DISTRICT.

8. T.P.GEORGE, S/O. PHILIPOSE,
AGED 46, THOTTAYIL HOUSE, PERUMBADAVOM KARA,
ILANJI VILLAGE, ERNAKULAM DISTRICT.

9. SKARIA, S/O. KUNJAVARA, AGED 52,
THOTTIYIL HOUSE, PERUMBADAVOM KARA,
ILANJI VILLAGE, ERNAKULAM DISTRICT.

BY ADV. SRI.ANOOP MATHEW ABRAHAM (FOR R4 TO R9)
SRI.LATHEESH SEBASTIAN
GOVT. PLEADER, SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JP

WP(C).No. 25715/2007/J

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE COMPLAINT CMP NO.2075/2007 FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, MUVATTUPUZHA, DATED 7-8-07.

/TRUE COPY/

P.A. TO JUDGE

JP

K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.25715 of 2007-J

Judgment

Balakrishnan Nair, J.

The petitioner has approached this Court, seeking protection to his life from the threat of respondents 4 and 5 and their supporters. The 4th respondent is his brother and the 5th respondent is his brother-in-law. For seeking repayment of the loan amount advanced by the petitioner to the 5th respondent, the said respondent is trying to harm him. There is danger to his life from the part of respondents 4 and 5 and their supporters, who are highly influential. Therefore, he preferred a petition before the Police. But, no action was taken on it. So, he moved the criminal court and his complaint has been forwarded to the police for registering a crime. Even thereafter, the harassment is continuing and therefore, he filed Ext.P2 representation before the Deputy Superintendent of Police and thereafter, this Writ Petition is filed, seeking protection to his life.

2. Respondents 4 to 9 have filed a counter affidavit, stating that the petitioner is suffering from mental illness for the last several years and he is

undergoing treatment. The 5th respondent never received any amount from the petitioner. All the allegations made in the Writ Petition are incorrect. The petitioner is not taking any medicine or is not amenable to undergo treatment. So, the present Writ Petition filed by a mentally ill person may be dismissed, it is submitted. The learned Government Pleader upon instruction submitted that the petitioner is suffering from mental illness and the same has been so stated to the police by his mother.

3. Having regard to the nature of the allegations and the counter allegations, we feel that this Court should not interfere in the matter. This Court cannot arrive at a definite finding, based on the disputed questions of fact. If the facts are disputed, that will go against the writ petitioner. Accordingly, the Writ Petition is dismissed without prejudice to the contentions of the petitioner and his rights if any, to move the civil/criminal court for appropriate reliefs.

K.BALAKRISHNAN NAIR,JUDGE

09.10.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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